

**UNITED STATES PATENT AND TRADEMARK OFFICE**



Serial No.: 10/663,931

Applicant: John Higgins Art Unit: 3728

Filed: September 16, 2003 Examiner: Luan K. Bui

Lambert & Associates  
92 State Street  
Boston, MA 02109

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**DECLARATION OF MR. JOHN HIGGINS UNDER 37 C.F.R. 1.132**

This Declaration is appended to an Amendment in response to the Office Action issued March 5, 2007 by the U.S. Patent and Trademark Office in connection with the above-identified application. A response to the March 5, 2007 Office Action is due June 5, 2007. Accordingly, this response is being timely filed.

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I, John Higgins, do hereby state and declare as follows:

1. I am the sole inventor of the subject matter described and claimed in the above-identified application.
2. I am president of SplaceCo LLC located at 1 Clocktower Place, #520, Nashua, NH 03060.
3. I have reviewed the Office Action issued March 5, 2007 by the U.S. Patent and Trademark Office in connection with the above-identified application.
4. I have reviewed the rejection of pending claim 18 under 35 U.S.C. 103(a) of the above-identified application in the March 5, 2007 Office Action which alleges that this claim is unpatentable in view of Bullock, U.S. Patent No. 1,046,962 (hereinafter referred to as "Bullock"); and Roberton, U.S. Patent No. 6,516,950 (hereinafter referred to as "Roberton"); or Bartell et al., U.S. Patent No. 4,889,236 (hereinafter referred to as "Bartell").
5. I have reviewed the rejection of pending claims 20-22 under 35 U.S.C. 103(a) of the above-identified application in the March 5, 2007 Office Action which alleges that these claims are unpatentable in view of Bullock and Roberton or Bartell; and further in view of Collens, U.S. Patent No. 4,669,613 (hereinafter referred to as "Collens"); or Boone, U.S. Patent No. 4,870,764 (hereinafter referred to as "Boone")
6. I have reviewed the cited prior art of Bullock, Roberton, Bartell, Collens and Boone.
7. None of this prior art, alone or in combination, teaches or suggests the Re-Pillable card encompassed by the pending claims. The packages disclosed by the prior art possess medical tablet containers equally spaced over the entire package with no separate bottom portion. The packages disclosed by the cited references do not contain a separate bottom portion that is free of medical tablet containers. Thus, the prior art discloses packages with a uniform thickness that must be equal to or greater than the thickness of the smallest tablet to be contained.

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8. Furthermore, the prior art packages do not disclose any portion that is adapted to fit within a credit card slot in a wallet.
9. The Re-Pillable card contains a non-uniform thickness, a bottom portion specifically designed with a credit card thickness to be inserted into a credit card pocket on a wallet and a top portion designed to contain medical tablets.
10. The novel design of the Re-pillable card provides the following benefits: to allow an individual to carry pills within a wallet without distorting or enlarging the shape of the wallet. In addition, wallets contain pre-existing credit card pockets and thus no additional purchases are necessary.
11. I hereby submit new evidence in support of the inventiveness of claims 18 and 20-22 over the prior art.
12. I submit a copy of one of the re-pillable cards attached to this Declaration as **Exhibit A**.
13. I submit a copy of a certificate of the award of "Best 'Health/Medical/Personal/Care/Safety' Invention" in the 2005 Yankee Invention Exposition for the re-pillable card as **Exhibit B**.
14. I submit a copy of a certificate of the award of "Best in Show- Third Place" in the 2005 Yankee Invention Exposition for the re-pillable card as **Exhibit C**.
15. I submit a copy of a October 2005 article by Joanne Hayes-Rines in Inventors' Digest for the re-pillable card as **Exhibit D**.
16. As noted in the Inventors' Digest article in the caption: "The Re-pillable slides into the top credit card slot on a wallet but doesn't make the wallet any thicker."
17. As also noted in Inventors' Digest article, "Subsequently, the editor of Diabetes magazine contacted him [John Higgins] because he bought a Re-Pillable and wanted to do a story."
18. I submit a copy of a March 2005 article in Diabetes Health for the re-pillable card as **Exhibit E**.

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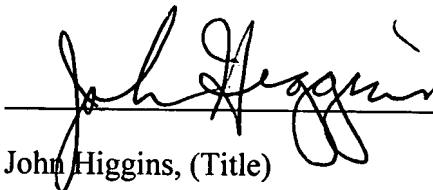
19. All of the Exhibits submitted and the commercial success obtained by the re-pillable card directly relate to the novel features of the re-pillable card.
20. Prior to the above-identified invention, I had no market share, nor any position within any company, containing any share of the market for pill containment devices. Prior to the above-identified invention, I had no advertising or marketing experience for the market for pill containment devices.
21. I have now obtained a market share in the pill containment market. I attach as **Exhibit F** a copy of an invoice for 200,000 Re-Pillable cards. I further attach as **Exhibit G**, a copy of an invoice for 300,000 Re-Pillable cards.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patents issuing thereon.

Respectfully Submitted,

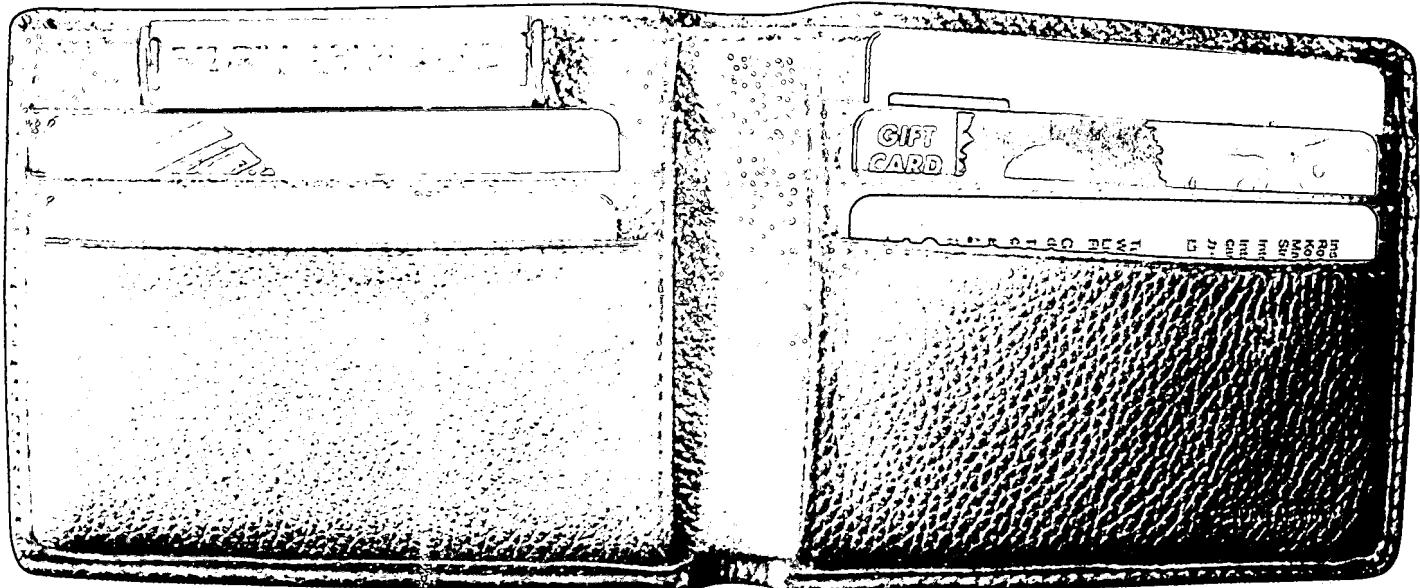
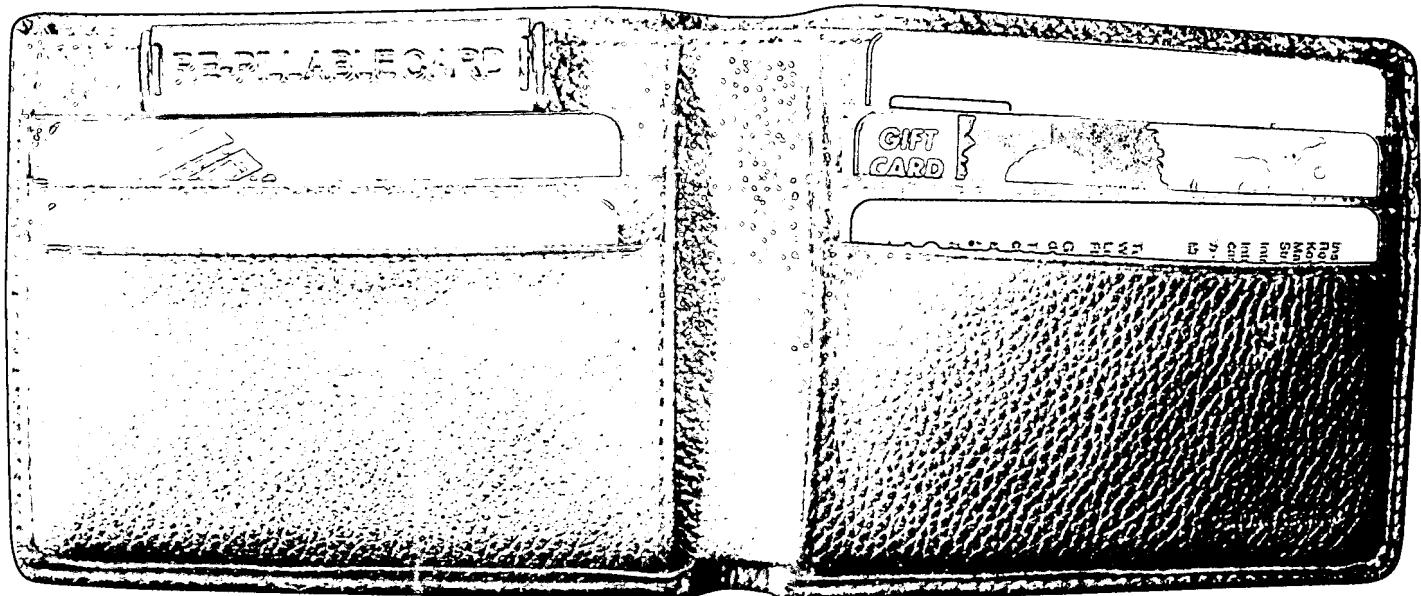
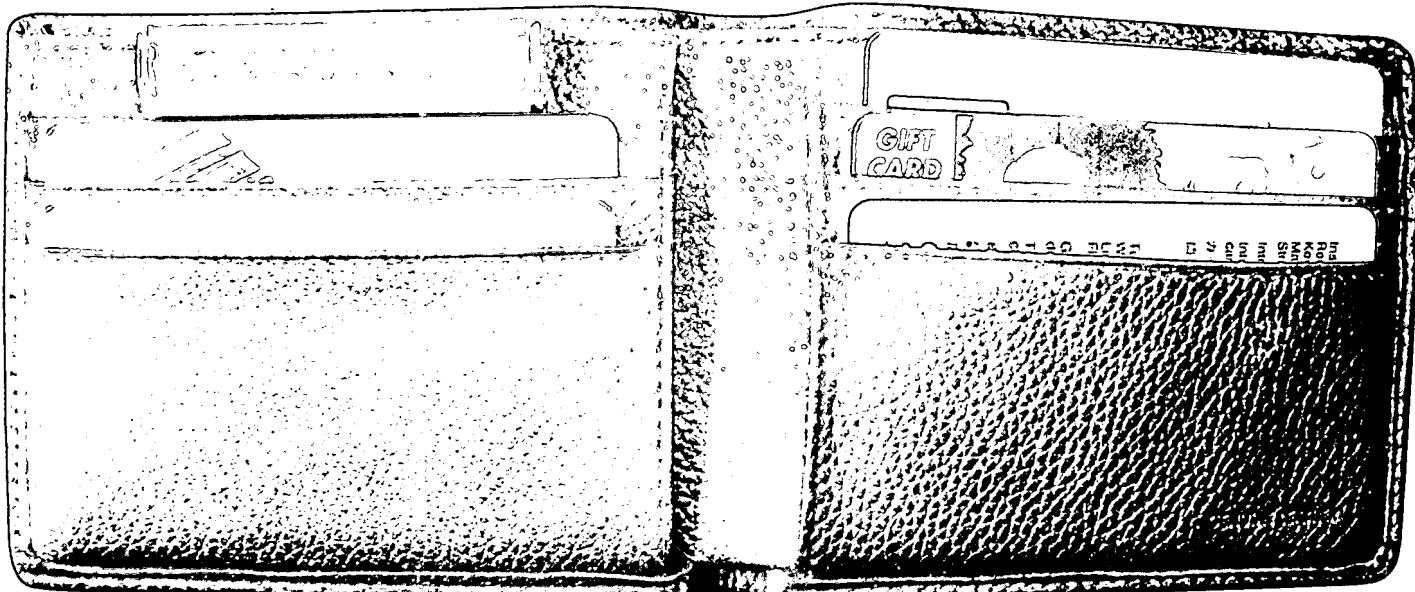
03/19/07

Date

  
John Higgins

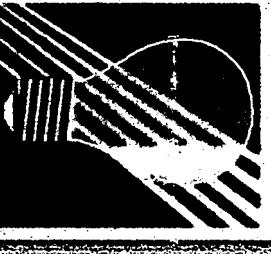
John Higgins, (Title)

# EXHIBIT A



# **EXHIBIT B**

**YANKEE® Best "Health/Medical/Personal  
Care/Safety" Invention**

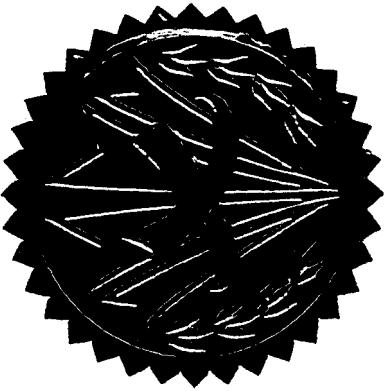


**2005**

IS AWARDED TO

**Mr. John Higgins**

RE-PILLABLE CARD™



William C. Crutcher

William C. Crutcher, President

# **EXHIBIT C**

**YANKEE Best in Show - Third Place**

**2005**

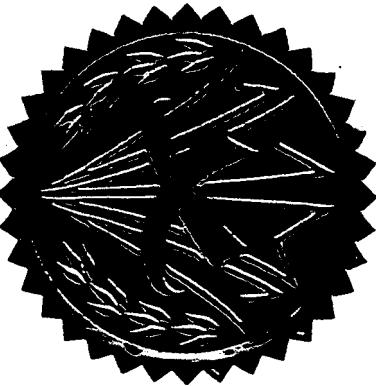
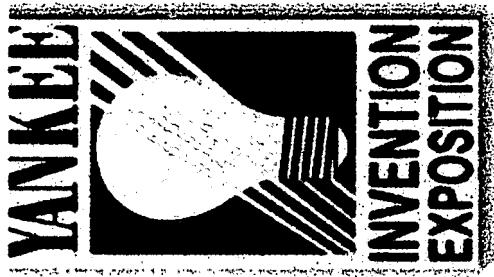
IS AWARDED TO

**Mr. John Higgins**

RE-PILLABLE CARD"

*Will C. Crucher*

*William C. Crucher, President*



# EXHIBIT D

**As a former small business owner, John Higgins brought a lot of common sense and respect for the bottom line to the table.**

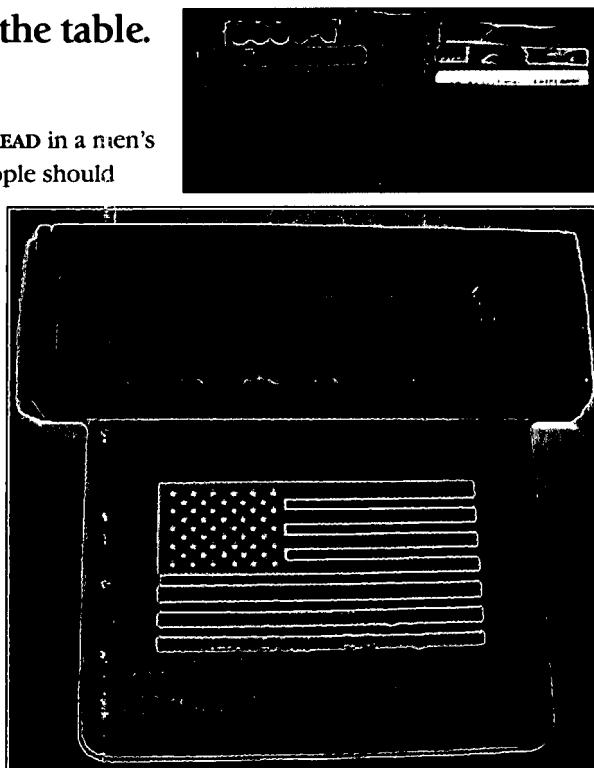
"LAST YEAR, I READ in a men's health magazine that people should have aspirin with them at all times in the event of a heart attack," says John Higgins of Nashua, N.H. "That made sense, but one writer suggested that everyone should have six bottles of aspirin - one at work, one in the car, one near our bed, etc. I thought that was ludicrous and decided to find an easier solution."

It occurred to Higgins that there is one thing people have with or near them at all times: their wallet. With that in mind, he created a wallet pill card that would hold a few aspirin and put it in his wallet. "I made a prototype and tried it out," he says, "but the first try, it made the wallet too fat. Frustrated, I happened to put the card into the top credit card slot and started to walk away." That simple action meant the difference between failure and success. "While walking, I thought I had dropped the card because my wallet did not bulge at all, it was normal. When I looked, I realized that the way I had just replaced the prototype did not take up any wallet space at all. I was amazed!"

After having a patent application filed, Higgins sought out a company that could manufacture the product.

# Re-Pillable

by Joanne Hayes-Rines



"I went to the Yellow Pages and looked under 'plastics,'" he says. "I found ProtoPart Co. in Hudson, N.H., not far from my house, so I called them and was told to come right over." The engineer quickly grasped the uniqueness of the product as did the owners of the company later that week. "They were so enthusiastic that they said they'd work with me to get it produced," Higgins says. "They gave me credit for the mold and a great price on manufacturing. I learned that I didn't have to go overseas to get the price I needed." The product, named the Re-Pillable Card, held 5 aspirin.

With product in hand, Higgins contacted *Men's Health* magazine, which was the source of his inspiration. The Re-Pillable was featured in their

The Re-Pillable slides into the top credit card slot on a wallet but doesn't make the wallet any thicker. To date, more than 100,000 units have been sold.

To get yours, go to [www.repillable.com](http://www.repillable.com). Re-Pillable is just \$6.99 for a two pack; the Re-Pillable Max is \$7.99 for a two pack.

January/February 2005 issue. Subsequently, the editor of *Diabetes* magazine contacted him because he had bought a Re-Pillable and wanted to do a story. The editor also suggested that Higgins make a larger version that could hold medications diabetics need. The Re-Pillable Max, which holds a dozen larger pills, was born.

Currently, Higgins is working with the agent of a pharmaceutical company in South America; potential sales could be in the hundreds of thousands. Again, ProtoPart worked with him to get the price point where he needed it.

As a former small business owner, John Higgins brought a lot of common sense and respect for the bottom line to the table. Also, he knows he wouldn't have had the success he's having without the emotional support of his family and the financial support from an old friend who is now a partner in his company. "I'm not a genius but I came up with something ingenious," he laughs. "I did this for my family and friends, and now for everyone, a life saving aspirin is just a wallet reach away."



# What's your way?

**Joanne Hayes-Rines**

There's no doubt about it; my favorite part of *Inventors' Digest* has always been the success stories. The idea of an individual taking an idea for a new product and actually making it a reality still overwhelms me even after having met scores of inventors who found success without the help of a corporate marketing machine. In this issue, we feature four seemingly simple products - each the brainchild of one person - that made their way to the marketplace powered by the inventors' perseverance, creativity, common sense and ability to network.

Of all the success stories we've featured in ID over the years (and there have been many!), I don't remember one person who began with a bankful of money. Instead, these folks are "average" in the sense of their financial situations and their personal commitments to family and jobs. But they are anything but "average" when it comes to doggedly focusing on their goals.

Our cover story about Mike Hicks's Accuthrow is a study in perseverance, which he demonstrated from the very

beginning when he literally wore himself out testing his idea for a new toy. Mike maintained that energy level as he searched for the right materials, did his own market testing, aggressively sought out media coverage and pursued placement on the "big boys'" shelves.

Common sense was John Higgins's hallmark from the day he read an "expert's" advice and thought it was nonsensical (it was). He sought a realistic answer to a critical problem, and he found it. He used his common sense as he sought a prototype maker, who turned out to be almost in his own backyard. Today, his product, the Re-Pillable, makes a potentially lifesaving aspirin just a wallet reach away ... wait until you read the expert's "solution."

Florence Halstead made her first EZ Book Clip just because she wanted one. Never thinking that she actually had a marketable idea, she was surprised when people started asking her where she bought it. So, in the beginning, Florence made the kinds of mistakes a person makes when she tries to do it all herself, but after joining an inventors' group, she learned she had options she'd never known about. Networking and learning from others often make the difference between success and failure.

If Jeff Kempher hadn't connected with a business associate to discuss his idea, the Klever Kutter prototype would probably still be a good "idea" sitting on a dusty shelf in his garage. But, Jeff did make that first move and from there a great team was created. Combining the talents of several people is often what it takes to bring a product to market, but such an effort only makes sense if the product's potential sales volume is very high, which is the case with the Klever Kutter.

While I am most intrigued by individual inventors' success stories, I also often wonder about the genesis of many products. Some of my questions are answered in an article about the USDA's Agricultural Research Service (ARS). ID's assistant editor, Linda Dangelo, was introduced to the program and looked into what they do; what she discovered really surprised us. A relatively small band of researchers and scientists are responsible for some major products that began in their labs and went to retail stores because of ventures with businesses - large and small. While ARS doesn't provide services for individuals who have just a "good idea," the program might be the perfect solution for individuals and small businesses that have developed an infrastructure around the idea.

I hope this issue's success stories will inspire you to work on your great idea. There's a lot you can learn from Mike, John, Florence and Jeff ... they each did it their way; now you go out and do it your way!



*Joanne Hayes-Rines*

# EXHIBIT E

## TYPES 1 & 2

### BD Eye for the Diabetic Guy (and Gal)

- The personalized care plans in the BD Diabetes Makeover include:
- A clinical evaluation
  - New medication regimens
  - Education on diabetes self-management practices
  - An individualized fitness plan
  - Nutritional guidance
  - Lifestyle-management skills
  - Ongoing support

Becton Dickinson and Company (BD) and its "Diabetes Dream Team" of experts recently partnered with Olympic gold medalist Gary Hall, Jr., to present BD Diabetes Makeover, a national program designed to motivate people with diabetes to improve their diabetes management.

The BD Diabetes Dream Team—a group of leading clinical, diabetes education, nutrition, fitness and lifestyle-organization experts—was formed to inspire people with diabetes to understand that "there are no barriers to what they can accomplish."

Participants undergoing the BD Diabetes Makeover are evaluated and provided with a "tailored program" to improve their diabetes care.

BD says it is organizing and conducting "mini-makeovers" in regional markets throughout the year.

Visit [www.bddiabetes.com](http://www.bddiabetes.com) to learn how you can work with your doctor to assemble your own "Dream Team" and conduct your own makeover using the information and resources provided on the site.



### New Line of Diabetes Skin Care Products Now Available

Health Care Products of Amityville, New York, has introduced a new line of diabetes skin care products.

Containing L-arginine HCL, urea, alpha hydroxy, silk proteins and natural botanicals, DiabetiDerm Foot Rejuvenating Cream rehydrates severely dry skin, penetrates and softens calluses and smoothes irritated areas.

Other DiabetiDerm products from Health Care Products include:

- DiabetiDerm Massage Stimulator Roll-On
- DiabetiDerm Gentle Cleansing Lotion
- DiabetiDerm Sunscreen
- DiabetiDerm Deep Moisturizing Cream
- DiabetiDerm Deep Moisturizing Hand and Body Lotion

DiabetiDerm products can be found in the diabetes sections at Walgreens, Wal-Mart, Target, Osco and other major retailers.

For more information, call (866) 263-9003 or log on to [www.diabeticproducts.com](http://www.diabeticproducts.com).

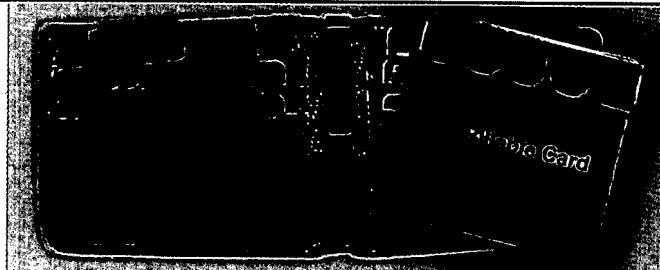
—D. Trecroci

### Saving Lives On the Go

The Re-Pillable Card is a slim and handy lifesaver that turns your wallet into an "aspirin survival kit."

The Re-Pillable Card fits right in your wallet along with your credit cards. It was invented by John Higgins, who came up with the idea after reading an article in *Men's Health* about how taking an aspirin during a heart attack can save your life and prevent damage to the heart muscle.

"I invented the Re-Pillable Card to store lifesaving aspirin and other aspirin-sized pills, potassium iodide (emergency radiation exposure pills) and even spare hearing aid batteries," says Higgins.



Re-Pillable Card Two-Pack: \$6.99

"Your aspirin and pills are just a wallet-reach away."

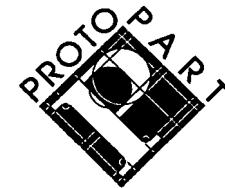
Shipping and handling are included with all domestic orders. For more information, log on to [www.re-pillable.com](http://www.re-pillable.com).

— Sources: [www.re-pillable.com](http://www.re-pillable.com); *Men's Health*, January–February 2005

# EXHIBIT F

Proto Part, Inc.

Plastic Injection Molding  
71 F Pine Road  
Hudson NH 03051  
P:(603)-883-6531 Fax:(603)-883-1216



The Plastic Part People

# Packing Slip

DATE	INVOICE #
1/6/2006	1083

BILL TO	SHIP TO
Splaceco LLC 1 Clocktower Place, #520 Nashua, NH 03060	<b>Axel Brokers, Inc.</b> <b>14208 Transportation Ave.</b> <b>Laredo, TX 78045</b> <b>Contact: Rossy Martinez</b>

P.O. NUMBER	TERMS	Shipped	VIA	F.O.B.
vrbl-John	2% 10 Net 30	1/6/2006	Best Way	Origin

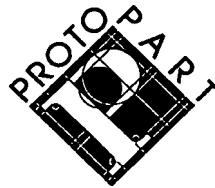
Quantity	Item Number	Description
200,000 1	Repill Discount	Repillable Card 2% Off  final Destination after Brokers:  Bayer Levitra Mexico Division Mexico

This order is complete. Thank you for your business.

# **EXHIBIT G**

Proto Part, Inc.

Plastic Injection Molding  
71 F Pine Road  
Hudson NH 03051  
P:(603)-883-6531 Fax:(603)-883-1216



The Plastic Part People

# Packing Slip

DATE	INVOICE #
10/12/2006	6405

BILL TO	SHIP TO
Splaceco LLC 1 Clocktower Place, #520 Nashua, NH 03060	<b>Axel Brokers, Inc.</b> <b>14208 Transportation Ave.</b> <b>Laredo, TX 78045</b> <b>Contact: Rossy Martinez</b>

P.O. NUMBER	TERMS	Shipped	VIA	F.O.B.
Vrbl-John	2% 10 Net 30	10/12/2006	Cust. Pickup	Origin
Quantity	Item Number	Description		
300,000 4,000 1	Repill-Pewter(B/L) Repill-Pewter(B/L) Discount	<p>Repillable Card - Pewter (Bayer/Levitra) Repillable Card - Pewter (Bayer/Levitra) - Free of Charge Replacements 2% Off</p> <p>Final Destination after Brokers: Bayer Levitra Mexico Division Mexico</p>		

This order is complete. Thank you for your business.